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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/313,991	12/07/2011	Shyam Sundera Bala Koteswara Gupta Pallapothu	81412558US04	5025

65913 7590 04/19/2017
Intellectual Property and Licensing
NXP B.V.
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EXAMINER

BLAIR, KILE O

ART UNIT	PAPER NUMBER
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2651

NOTIFICATION DATE	DELIVERY MODE
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04/19/2017

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SHYAM SUNDERA BALA KOTESWARA GUPTA
PALLAPOTHU, SANDEEP YADAV,
SANIGAPALLY HARINATH REDDY,
and DATTAGURU BN

Appeal 2016-007330
Application 13/313,991¹
Technology Center 2600

Before KRISTEN L. DROESCH, CARL L. SILVERMAN, and
ALEX S. YAP, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's
Final Rejection of claims 1–15, which constitute all the pending claims. We
have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ The real party in interest is identified as NXP. App. Br. 2.

STATEMENT OF THE CASE

Appellants' invention relates to audio browsing. Abstract; Figs. 1, 4. Claim 1 is exemplary of the subject matter on appeal (disputed limitation emphasized):

1. An audio playback device, comprising:
 - a user interface for receiving user commands including a browse songs command;
 - a frequency band control unit configured to provide different songs at different substantially non-overlapping user audible frequency bands;
 - a processor; and
 - an audio playback system comprising at least two speakers,*
 - wherein the processor is adapted, in response to the browse songs command, to control the audio playback system to play back at least two independent songs simultaneously each in a different one of the speakers, in at least two different substantially non-overlapping user audible frequency bands, distributed to appear to the user to originate from different directions and at different frequencies.*

App. Br. 13 (Claims Appendix).

REJECTION

Claims 1–15 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Ojala (US 8,380,333 B2; iss. Feb. 19, 2013), Yamashita et al. (US 8,204,614 B2; iss. June 19, 2012) (“Yamashita”), and O’Connell (US 5,331,111 B2; iss. July 19, 1994). Final Act. 2–7.

ANALYSIS

Appellants argue the Examiner errs in finding Ojala, Yamashita, and O’Connell teach the claim 1 limitation *an audio playback system comprising*

at least two speakers, wherein the processor is adapted, in response to the browse songs command, to control the audio playback system to play back at least two independent songs simultaneously each in a different one of the speakers. App. Br. 6–9; Reply Br. 2–3.

According to Appellants, the Examiner errs because the cited references “fail to disclose playing ‘two independent songs simultaneously each in a different one of the speakers.’” App. Br. 9. In particular, Appellants argue the Examiner’s reliance on panning is in error because the “sound [of the claimed inventions] is not a ‘panning’ effect, but rather an interface and interaction element for a user.” *Id.* Appellants also argue “‘playing two independent songs simultaneously . . .’ utilizing the Applicant’s described interface is new, novel and not present in Ojala, Yamashita and O’Connell.” *Id.* at 9–10.

Appellants further argue “[t]he searching feature, with an audio responsive and visual playback, is not present in the cited references” and “[t]o be able to search as depicted in FIG. 3 of [the] present application: while selecting between two songs playing in each ear[], is not present in Ojala, for example, which discusses audio mixing while searching.” App. Br. 9–10 (emphasis omitted).

The Examiner finds the cited references teach the claim 1 limitations, including the disputed limitation. Final Act. 2–5; Ans. 7–15. Regarding the disputed limitation, the Examiner finds Ojala and Yamashita teach browsing of independent songs including playback of at least two independent songs simultaneously in one or more speakers wherein localization can be carried out by panning. Final Act. 2–3 (citing Ojala 9:29–32, 12:63 to 13:29, 19:18–24; Yamashita 14:34–47, 9:61–64). Regarding *each in a different*

one of the speakers, the Examiner finds panning is well known and includes “hard panning” in which two audio items are each “hard panned” to a *different one of the speakers*. Final Act. 4; *see also* Ans. 14. In particular, the Examiner determines the disputed limitation encompasses “hard panning” two audio items and finds O’Connell teaches hard panning in which each song is hard panned to a designated output channel associated with a *different* system playback speaker. Final Act. 4 (citing O’Connell 36:35–50; Fig. 19). The Examiner finds “the configuration of audio distribution of independent songs between different speakers is the exact same multi-channel distribution of audio sources that is known to those of ordinary skill in the art as ‘hard panning.’” Ans. 15.

Regarding Appellants’ arguments concerning the interface and search feature, the Examiner finds no “search feature” is recited in the claims and Ojala teaches the same browsing concept as claimed with corresponding audio spatialization. Ans. 15–16 (citing Ojala Figs. 5, 6; 12:3–14, 11:21–30). *See also* Ojala browsing media content by moving the 3D rendered images via sliding finger on the touch screen of the display. *Id.* (citing Ojala 12:3–8; Fig. 5). The Examiner finds Ojala teaches the claimed user interface. Final Act. 2 (citing Ojala 10:38–45, 11:10–20, 12:3–11).

We are not persuaded by Appellants’ arguments and agree, instead, with the Examiner’s findings. Appellants do not present sufficient persuasive arguments that the claim terms should be limited to exclude the teaching of the cited references, including well known panning techniques, and present no persuasive argument that the Examiner’s findings and claim interpretations are unreasonable or overbroad. Claim terms in a patent application are given the broadest reasonable interpretation consistent with

the specification, as understood by one of ordinary skill in the art. *In re Crish*, 393 F.3d 1253, 1256 (Fed. Cir. 2004). Moreover, Appellants' arguments are conclusory and argue the references individually whereas the rejection is based on the combination of the references. *In re Keller*, 642 F.2d 413, 426 (CCPA 1981) (“[O]ne cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references.” (citations omitted)); *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

In view of the above, we sustain the rejection of claim 1, and independent method claim 9, which recites the disputed limitation in commensurate form. We also sustain the rejection of claims 2–8 and 10–15 as these claims are not argued separately. *See* 37 C.F.R. § 41.37(c)(1)(iv).

DECISION

We affirm the Examiner's decision rejecting claims 1–15.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED